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FISCAL IMPACT STATEMENT

LS 6247

BILL NUMBER: HB 1155

NOTE PREPARED: Jan 27, 2006

BILL AMENDED: Jan 26, 2006

SUBJECT: Child Molesting.

FIRST AUTHOR: Rep. Budak

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- A. *Lifetime Parole and Monitoring Devices:* It provides that a person who was at least 18 years of age when the person committed child molesting and is convicted of the offense must be: (1) placed on lifetime parole when the person's term of imprisonment is completed; and (2) required to wear a GPS monitoring device.
- B. *Monitoring Devices for Sex Offenders:* It allows the parole board to require parolees who are sex and violent offenders to wear a GPS monitoring device.
- C. *Conditions for Persons on Lifetime Parole:* It prohibits a person on parole for child molesting from: (1) residing within 1,000 feet of certain facilities; or (2) owning, operating, managing, being employed by, or volunteering for certain specified activities.
- D. *Violation of Lifetime Parole:* It makes violation of a condition of lifetime parole a felony. It specifies that a person convicted of child molesting in another state whose parole is transferred to Indiana is required to be placed on lifetime parole.
- E. *Other Supervision:* It provides that, if a person being supervised on lifetime parole is also required to be supervised by a probation department or similar agency, the probation department or similar agency may have sole supervision of the person if the parole board finds that supervision by the probation department or other agency will be at least as stringent and effective as supervision by the parole board.

Effective Date: July 1, 2006.

Explanation of State Expenditures: (Revised) *Background on Supervision of Sex Offenders* -- By law, sex offenders must serve a minimum sentence in a Department of Correction (DOC) facility. IC 35-50-2-2(d) allows a court to sentence the offender for the minimum term and, upon release, place the offender on probation for not more than 10 years. If the offender is given a full sentence with no early release on probation, the offender may earn time cuts for good behavior and for earning educational degrees and vocational certificates. IC 35-50-6-1(d) requires an offender who is released early because of accrued credit time, to be placed on parole for a maximum 10 years upon release. Offenders can also be released into a community transition program operated by a probation department or community corrections program (CTP). Community transition assignments are of relatively short term compared to probation or parole assignments. Some offenders serve their entire sentences without early release because they earned no credit time.

The following table shows these types of releases between 2001 and 2004.

All Child Molesters Released Between CY 2001 and 2004									
CY	Class A Felons Released			B Felons Released			Class C Felons Released		
	Pro-bation	Parole Discharged CTP	Total	Pro-bation	Parole Discharged CTP	Total	Pro-bation	Parole Discharged CTP	Total
2001		5	5	59	75	134	118	151	269
2002	1	2	3	62	85	147	111	152	263
2003	1	5	6	57	97	154	123	187	310
2004	4	5	9	65	88	153	88	157	245
Avg.	2	4	6	61	86	147	110	162	272

The bill provides that offenders over the age of 18 who are sentenced for child molesting are placed on parole for the remainder of their lives. As a condition of parole, child molesters will be required to wear a monitoring device that can transmit information about the offender's precise location 24 hours per day. This bill also permits other sex offenders to wear monitoring devices upon the discretion of the parole board.

The offender sentenced for child molesting may be placed on probation if the parole board determines the other supervising authority will be at least as stringent and effective as supervision by the parole board. Since offenders on parole are required to have these monitoring devices, it is assumed offenders on probation will also need to be using global positioning systems as well. Consequently, this bill would mandate probation departments to use global position monitoring if the offender sentenced for child molesting is placed on probation.

The potential impact on sentencing patterns is currently indeterminable. On average between 2000 and 2004, well over half of all offenders sentenced for child molesting were released on parole and discharged after serving a full sentence or released to a community transition program. The balance were released on probation. Under the bill, offenders who are released on parole or discharged after serving their entire sentences will be on parole for the rest of their lives. It is not clear whether courts who give offenders split sentences for child molesting will continue to do so if they are required to use global position monitoring.

To make the following estimate, it is assumed that offenders currently placed on probation will continue to be placed on probation, but after ten years will be returned to supervision under parole. All other offenders will be placed on parole upon release from DOC.

Future parole populations are affected by three variables: the number being released by type of felony, the average age at release and the recidivism rate of the offenders. The following table presents these factors.

Variables Affecting Offender Population			
	Class C	Class B	Class A
Average Length of Stay (In Years) in DOC	2.5	4.6	7.7
Average Age at Release from DOC Facility	40	38	43
Average Age When Beginning Lifetime Parole	50	48	53
Number of Years Offenders Would Have to Be on Parole	27	29	24
Recidivism Rate*	40%		
*Based on sex offenders released in 2001 from DOC facilities. Assumes that 60% will remain on parole after three years.			

Estimated Costs to the Department of Correction -- The bill will have two effects on the parole supervision costs for the Department of Correction.

- The immediate effect will increase parole supervision costs by requiring offenders to wear a monitoring device. Since this bill only applies to crimes committed after June 30, 2006, the earliest that this bill could affect the Department of Correction would be in FY 2009 because offenders sentenced for child molesting are required to serve a minimum sentence.
- As the population on life time parole increases over time, new parole officers will be needed to monitor these additional offenders.

The accumulated number of offenders who will be on parole is estimated by examining the felony classes of the offenders. For offenders sentenced in FY 2007, Class C felons will be released starting in FY 2009, Class B felons will be released in 2012 and Class A felons will be released in FY 2015.

Critical Years Affected Based on Offenders Sentenced in FY 2007				
Felony	Average Number Released Per Year*	Number of Years In DOC Facilities**	First Fiscal Year Affecting GPS Costs	First Year Affecting Parole Staff
Class A Felons	4	7.7	2014	2024
Class B Felons	86	4.6	2011	2021
Class C Felons	162	2.5	2009	2019
* Based on releases between 2001 and 2004.				
** Based on 2004 releases.				

The impact of requiring GPS monitoring would begin in FY 2009 when Class C felony child molesters would be released. There are a variety of monitoring systems that fit the requirements for monitoring in IC 35-38-2.5-3 and that would work in different geographic locations. The cost of monitoring will vary based on the type of device required. As an example of the difference in cost, the daily cost of a radio frequency device that monitors offenders in their homes is \$1.30 in Marion County, while the cost of a global positioning satellite system is \$5.00 per day for a passive system and \$10.00 for active, or 24-hour, surveillance. Continuous monitoring (not necessarily required) could increase costs for staff to allow for monitoring and response or to provide for more flexible working schedules. Since all 162 offenders would need to be monitored, the costs for DOC would be \$583,000 in FY 2009. Because the recidivism rate for sex offenders is estimated to be 40%

based on 2001 releases, the following table takes this into account when estimating the number of future offenders.

Potential Costs of Mandatory GPS Monitors by Selected Fiscal Years in 2006 Dollars			
	<u>2009</u>	<u>2012</u>	<u>2015</u>
Class A Felons			4
Class B Felons		86	276
Class C Felons	<u>162</u>	<u>690</u>	<u>809</u>
Added Child Molesters on Parole	162	776	1,089
Unit Costs of Global Position Monitoring	\$3,600	\$3,600	\$3,600
Estimated Costs of Global Position Monitoring	\$583,200	\$2,793,600	\$3,920,400

Projected Costs for Parole Staff -- The added costs for parole staff will depend on the added number of offenders who are on parole after 2019 and on the number of offenders each parole officer supervises. Currently, eight district offices have 91 parole officers and 36 other employees, including substance abuse counselors and support staff. The average annual parole population as of November 2005 was 8,144. Based on these statistics, the average number of offenders per parole officer is 90.

Given the effective date of the bill and assuming that offenders would otherwise have received 10 years of parole, lifetime parole will increase the parole population beginning in 2019. The increases in the parole population will result from the offenders who would have been released from parole at the end of ten years continuing on parole and the offenders who were on probation for ten years returning to being supervised by parole officers. The following represents the added costs to the Department of Correction based on the average 2006 salary of \$50,100.

Potential Costs of Additional Offenders on Parole in 2006 Dollars			
	Year Felons Sentenced in 2007 Begin Lifetime Parole		
	<u>2020</u>	<u>2022</u>	<u>2025</u>
Class A Felons*			4
Class B Felons*		88	264
Class C Felons*	<u>163</u>	<u>489</u>	<u>815</u>
Added Child Molesters on Parole	163	577	1,083
New Probation Officers Needed**	2	6	12
Estimated Cost Based on 2005 Expenditures	\$50,100	\$50,100	\$50,100
Added Costs of New Probation Officers	\$100,200	\$300,600	\$601,200
*Assumes that 40% of original releases in 2007 have returned to DOC.			
**Based on 90 Offenders per Parole Officer.			

Violation of Lifetime Parole: There are no data available to indicate how many offenders on lifetime parole would be convicted of the Class D felony created under the bill for knowingly or intentionally violating the conditions of lifetime parole (that involves a child under 16 years of age or the victim of the child molesting offense) if the person's lifetime parole had been revoked two or more times, or if the person has completed the term of sentence. The offense may be increased to a Class C felony based on prior unrelated convictions.

Depending upon mitigating and aggravating circumstances, a Class C felony is punishable by a prison term ranging between 2 and 8 years, and a Class D felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately two years, and for all Class D felony offenders is approximately 10 months.

The average expenditure to house an adult offender was \$21,514 in FY 2004, ranging from a low of \$16,645 to a high of \$49,281. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$59,574, with the costs ranging from a low of \$52,420 to a high of \$77,674.

Explanation of State Revenues: (Revised) *Violation of Lifetime Parole:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C and Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: (Revised) *Monitoring of Offenders on Probation:* If this bill does not affect the sentencing patterns (as they occurred between 2000 and 2004), probation programs would be required to place child molesters on global position monitoring. The additional costs incurred will be the same as the costs incurred by the Department of Correction of \$3,600 per unit.

Estimated Costs of Child Molest Offenders on Probation Needing GPS Tracking						
<u>Felony Class</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>
Class C Felons	110	176	286	396	506	616
Class B Felons			61	98	159	220
Class A Felons	—	—	—	—	—	— <u>2</u>
Accumulated	<u>110</u>	<u>176</u>	<u>347</u>	<u>494</u>	<u>665</u>	<u>838</u>
Cost Based on \$3,600 per Unit	\$396,000	\$633,600	\$1,249,200	\$1,778,400	\$2,394,000	\$3,016,800

See also *Explanation of State Expenditures*.

Explanation of Local Revenues: (Revised) *Monitoring of Offenders* – A portion of the costs associated with these systems can be offset from user fees collected from offenders on parole.

Violation of Lifetime Parole: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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